

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.174.401 fees and 24.174.402) ON PROPOSED AMENDMENT
dangerous drug fee schedule)

TO: All Concerned Persons

1. On August 17, 2006, at 1:00 p.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Pharmacy (board) no later than 5:00 p.m., on August 11, 2006, to advise us of the nature of the accommodation that you need. Please contact Marilyn Kelly-Clark, Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2355; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdp@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.174.401 FEE SCHEDULE

(1) Application for licensure transfer	\$250 <u>300</u>
(2) Original registration for pharmacist	60 <u>120</u>
(3) Pharmacist annual renewal fee	55 <u>110</u>
(4) Certified pharmacy original certification (includes original, change in location, and change in ownership)	200 <u>400</u>
(5) Certified pharmacy annual renewal fee	400 <u>200</u>
(6) remains the same.	
(7) Intern registration	40 <u>80</u>
(8) NAPLEX examination fee (paid directly to exam service)	360 <u>465</u>
(9) NAPLEX examination processing fee (paid to board)	25 <u>35</u>
(10) Multistate pharmacy jurisprudence examination (MPJE) exam fee (NABP - \$130 <u>185</u> ; board - \$15 <u>25</u>)	145 <u>210</u>
(11) Utilization plan approval fee	150 <u>200</u>
(12) Annual utilization plan renewal fee	75 <u>100</u>
(13) Pharmacy technician and technician-in-training registration fee	40 <u>60</u>
(14) Pharmacy technician renewal fee	25 <u>50</u>
(15) Wholesale drug distributor license	150 <u>300</u>
(16) Annual wholesale drug distributor renewal	75 <u>175</u>
(17) Out-of-state mail service pharmacy/telepharmacy initial license	200 <u>400</u>

- (18) Out-of-state mail service pharmacy/telepharmacy renewal ~~400~~ 200
(19) Certification of grades/transfer of internship hours ~~40~~ 20
(20) through (22) remain the same.

AUTH: 37-1-134, 37-7-201, 50-32-314, MCA

IMP: 37-1-134, ~~37-1-144~~, 37-7-201, ~~37-7-302~~, 37-7-321, 37-7-703, 50-32-314, MCA

24.174.402 DANGEROUS DRUG FEE SCHEDULE (1) The fees to be assessed for registration to manufacture, distribute, dispense, conduct research, or analyze, a dangerous drug shall be assessed according to the following schedule:

<u>REGISTRATION</u>	<u>ANNUAL FEE</u>
(a) manufacture	\$400 <u>150</u>
(b) distribute	400 <u>150</u>
(c) dispense - pharmacies	35 <u>75</u>
(d) conduct research/analyze	50 <u>100</u>

AUTH: 37-1-134, 37-7-201, 50-32-103, MCA

IMP: 37-1-134, 37-7-201, ~~37-7-303~~, 37-7-321, 50-32-103, MCA

REASON: The board determined it is reasonably necessary to amend ARM 24.174.401 and 24.174.402 to ensure the board's fees remain at a level commensurate with associated costs as required by 37-1-134, MCA, and to comply with recommendations of the Legislative Auditor. The board has not increased the fees in ARM 24.174.401 since 2002, nor made adjustment to the dangerous drug fee schedule in ARM 24.174.402 since 1998. Board expenditures totaled \$479,630 in fiscal year (FY) 2005 and \$506,914 in FY 2006. The board's executive director position was part time in FY 2005, and the position was vacant for six months in FY 2006. In FY 2007, the executive director will become a full time position which will result in an increase in expenses. The fee increase is estimated to result in an annual revenue increase of \$260,995 and a projected annual revenue of \$560,695. The board's appropriation for FY 2007 is \$543,487.

The board estimates that the proposed fee increases will affect applicants, licensees, and business entities as follows:

Reciprocity of pharmacists into Montana: approximately 27 applicants affected by the \$50 fee increase for an estimated annual revenue increase of \$1,350.

Pharmacist intern registration: approximately 76 applicants affected by the \$40 fee increase for an estimated annual revenue increase of \$3,040.

Pharmacist original license: approximately 75 applicants affected by the \$60 fee increase for an estimated annual revenue increase of \$4,500.

Pharmacist examination fees: approximately 57 applicants affected by the \$20 fee increase for the NAPLEX and the MPJE for an estimated annual revenue increase of \$1,140.

Pharmacist renewal: approximately 1450 licensees affected by the \$55 fee increase for an estimated annual revenue increase of \$79,750.

Technician in training registration: approximately 141 applicants affected by the \$20 fee increase for an estimated annual revenue increase of \$2,820.

Certified technician original or transfer: approximately 46 applicants affected by the \$20 fee increase for an estimated annual revenue increase of \$920.

Certified technician renewal: approximately 569 licensees affected by the \$25 fee increase for an estimated annual revenue increase of \$14,225.

Pharmacy original license: approximately 28 applicants affected by the \$200 fee increase for an estimated annual revenue increase of \$5,600.

Pharmacy renewal: approximately 312 licensees affected by the \$100 fee increase for an estimated annual revenue increase of \$31,200.

Mail order pharmacy original license: approximately 63 applicants affected by the \$200 fee increase for an estimated annual revenue increase of \$12,600.

Mail order pharmacy renewal: approximately 238 licensees affected by the \$100 fee increase for an estimated annual revenue increase of \$23,800.

Wholesale distributor original: approximately 61 applicants affected by the \$150 fee increase for an estimated annual revenue increase of \$9,150.

Wholesale distributor renewal: approximately 401 licensees affected by the \$100 fee increase for an estimated annual revenue increase of \$40,100.

Technician utilization plan original: approximately 59 applicants affected by the \$50 fee increase for an estimated annual revenue increase of \$2,950.

Technician utilization plan renewal: approximately 250 licensees affected by the \$25 fee increase for an estimated annual revenue increase of \$6,250.

Certification of grades/transfer of internship: approximately 15 applicants affected by the \$10 fee increase for an estimated annual revenue increase of \$150.

All other fees in ARM 24.174.401 remain unchanged.

Dangerous drug manufacture/distribute: approximately 208 applicants affected by the \$50 increase in the annual registration fees for manufacturing and distributing dangerous drugs for an estimated annual revenue increase of \$10,400.

Dangerous drug dispenser: approximately 275 applicants affected by the \$40 annual registration fee increase for an estimated annual revenue increase of \$11,000.

Dangerous drug researcher/analyst: approximately one applicant affected by the \$50 annual registration fee increase for an estimated annual revenue increase of \$50.

The board has reviewed and researched licensing fees from surrounding states. With the proposed fee increases, Montana fees are comparable to those charged by Colorado, Idaho, North Dakota, South Dakota, Wyoming, and Utah, and, in several categories, Montana's fees will remain lower than surrounding states.

In addition to the above, the board finds that it is reasonably necessary to amend the AUTH and IMP citations in the rules to appropriately reflect legislation changes made in Chapter 429, L. of 2005 (House Bill 189) clarifying and standardizing the roles of the department and the board with respect to the establishment of various fees.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdpha@mt.gov, and must be received no later than 5:00 p.m., August 25, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.pharmacy.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or

delivered to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdp@mt.gov, or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Jack Atkins, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHARMACY
WILLIAM BURTON, R. Ph., CHAIRPERSON

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 17, 2006